

SECOND REGULAR SESSION

SENATE BILL NO. 962

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time January 26, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4671S.01I

AN ACT

To amend chapter 135, RSMo, by adding thereto seven new sections relating to the Missouri student success scholarship tax credit program, with a sunset provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto seven new sections, to be known as sections 135.980, 135.983, 135.986, 135.989, 135.991, 135.994, and 135.997, to read as follows:

135.980. 1. Sections 135.980 to 135.997 shall be known and may be cited as the "Missouri Student Success Scholarship Tax Credit Program".

2. As used in sections 135.980 to 135.997, the following terms shall mean:

(1) "Department", the department of economic development;

(2) "Educational scholarships", grants to students to cover all or part of the tuition and fees at either a qualified non-public school or a qualified public school, or other approved educational expenses, including supplemental services including private tutors and books or transportation to a public school outside of a student's resident school district. The organization will provide scholarships to qualified students that do not exceed an average of five thousand dollars, which amount shall annually be adjusted for inflation based on the consumer price index rounded to the nearest fifty dollar increment;

(3) "Eligible student", a student who:

(a) Is a member of a household whose total annual income during the year before he or she receives an educational scholarship under this program does not exceed an amount equal to one hundred eight-five percent of the income standard used to qualify for a free or reduced

20 price lunch under the national Free or Reduced Price Lunch Program
21 established under 42 U.S.C. Section 1751, et seq. Once a student receives
22 a scholarship under this program, the student will remain eligible
23 regardless of household income until the student graduates high school
24 or reaches twenty-one years of age;

25 (b) Was eligible to attend a public school in the preceding
26 semester or is starting school in Missouri for the first time; and

27 (c) Resides in any city not within a county, any home rule city
28 with more than four hundred thousand inhabitants and located in more
29 than one county, or in any school district supervised by a special
30 administrative board appointed by the state board of education under
31 the provisions of subsection 3 of section 162.081, RSMo, within the state
32 of Missouri while receiving an educational scholarship;

33 (4) "Parent", includes a guardian, custodian, or other person with
34 authority to act on behalf of the child;

35 (5) "Program", the Missouri student success scholarships tax
36 credit program;

37 (6) "Qualified school", either a public elementary or secondary
38 school outside of the district in which a student resides or a nonpublic
39 elementary or secondary school in our state that complies with all of the
40 requirements of the program;

41 (7) "Scholarship granting organization", an organization that
42 complies with the requirements of this program and provides education
43 scholarships to students attending qualified schools of their parents'
44 choice.

135.983. 1. A taxpayer eligible for the credit is defined as an
2 individual subject to the state income tax imposed under chapter 143,
3 RSMo, an individual, a firm, a partner in a firm, corporation, or a
4 shareholder in an S corporation doing business in this state and subject
5 to the state income tax imposed under chapter 143, RSMo, or a
6 corporation subject to the annual corporation franchise tax imposed
7 under chapter 147, RSMo, or an express company which pays an annual
8 tax on its gross receipts in this state under chapter 153, RSMo.

9 2. For all tax years beginning on or after January 1, 2006, any
10 taxpayer who makes contributions to a nonprofit scholarship granting
11 organization may claim a credit against the tax otherwise due under
12 chapter 143, RSMo, other than taxes withheld under sections 143.191 to
13 143.265, RSMo, and chapters 147 and 153, RSMo, in an amount equal to

14 one hundred percent of the amount the taxpayer contributed during the
15 tax year for which the credit is claimed; except that, no taxpayer shall
16 claim a credit under sections 135.610 to 135.624 for any contribution
17 made by the taxpayer, or an agent of the taxpayer, on behalf of the
18 taxpayer's dependent, or in the case of a business taxpayer, on behalf of
19 the business's agent's dependent. Any amount of contribution
20 subtracted from federal adjusted gross income or federal taxable income
21 shall be added back in the determination of Missouri adjusted gross
22 income or Missouri taxable income before the credit can be claimed.

23 3. A taxpayer who files a state income tax return and is not a
24 dependent of another taxpayer may claim a credit for a contribution
25 made to a scholarship granting organization.

26 4. The credit may be claimed by an individual taxpayer or a
27 married couple filing jointly in an amount equal to the total
28 contributions made to a scholarship granting organization during the
29 taxable year for which the credit is claimed up to one hundred percent
30 of the taxpayer's tax liability.

31 5. An individual taxpayer or a married couple filing jointly may
32 carry forward a tax credit under this program for three years.

33 6. The credit may be claimed by a corporate taxpayer in an
34 amount equal to the total contributions made to a scholarship granting
35 organization for educational scholarships during the taxable year for
36 which the credit is claimed up to one hundred percent of the taxpayer's
37 tax liability.

38 7. The cumulative amount of tax credits which may be allocated
39 to all taxpayers contributing to a scholarship granting organization in
40 any one fiscal year shall not exceed forty million dollars, which amount
41 shall annually be adjusted for inflation based on the consumer price
42 index. To the maximum extent possible, the director shall establish the
43 procedure described in this subsection in such a manner as to ensure
44 that taxpayers can claim all the tax credits possible up to the cumulative
45 amount of tax credits available for the fiscal year. The director shall
46 certify to the organizations the amount of eligible tax credits that can
47 be taken by the organizations.

48 8. If a student uses a student success scholarship to attend
49 another public school, the accepting public school will accept the
50 scholarship amount in lieu of the state revenue that would normally be
51 owed the accepting district if the student came without a scholarship.

135.986. 1. Each scholarship granting organization shall:

- 2 (1) Notify the department of its intent to provide educational
3 scholarships to students attending qualified schools;
- 4 (2) Demonstrate to the department that it has been granted
5 exemption from the federal income tax as an organization described in
6 Section 501(c)(3) of the Internal Revenue Code;
- 7 (3) Provide a department-approved receipt to taxpayers for
8 contributions made to the organization;
- 9 (4) Ensure that at least ninety percent of its revenue from
10 donations is spent on educational scholarships, and that all revenue
11 from interest or investments is spent on educational scholarships;
- 12 (5) Ensure that one hundred percent of first time recipients of
13 educational scholarships were not continuously enrolled in a nonpublic
14 school during the previous semester, or are eligible for kindergarten;
- 15 (6) Ensure that at least eighty percent of eligible revenues are
16 allocated for grants to students to cover all or part of the tuition and
17 fees at either a qualified nonpublic school or a qualified public school;
- 18 (7) Ensure that no more than twenty percent of eligible revenues
19 are allocated for other approved educational expenses, including
20 supplemental services like tutors, books and technology, or
21 transportation to a public school outside of a student's resident school
22 district;
- 23 (8) Distribute scholarship payments four times per year as checks
24 made out to a student's parent or guardian and mailed to the qualified
25 school where the student is enrolled. The parent or guardian must
26 endorse the check before it can be deposited;
- 27 (9) Cooperate with the department to conduct criminal
28 background checks on all of its employees and board members and
29 exclude from employment or governance any individual that might
30 reasonably pose a risk to the appropriate use of contributed funds;
- 31 (10) Ensure that scholarships are portable during the school year
32 and can be used at any qualified school that accepts the eligible student
33 according to a parent's wishes. If a student moves to a new qualified
34 school during a school year, the scholarship amount may be prorated;
- 35 (11) Demonstrate its financial accountability by:
 - 36 (a) Submitting a financial information report for the organization
37 that complies with uniform financial accounting standards established
38 by the department and conducted by a certified public accountant; and

39 (b) Having the auditor certify that the report is free of material
40 misstatements;

41 (12) Demonstrate its financial viability, if they are to receive
42 donations of fifty thousand dollars or more during the school year, by:

43 (a) Filing with the department prior to the start of the school year
44 a surety bond payable to the state in an amount equal to the aggregate
45 amount of contributions expected to be received during the school year;
46 or

47 (b) Filing with the department prior to the start of the school
48 year financial information that demonstrates the financial viability of
49 the scholarship granting organization.

50 2. Each scholarship granting organization shall ensure that
51 participating schools that accept its scholarship students will:

52 (1) Comply with all health and safety laws or codes that apply to
53 nonpublic schools;

54 (2) Hold a valid occupancy permit if required by their
55 municipality;

56 (3) Certify that they will not discriminate in admissions on the
57 basis of race, color, national origin, religion, or disability;

58 (4) Provide academic accountability to parents of the students in
59 the program by regularly reporting to the parent on the student's
60 progress.

61 3. Scholarship granting organizations shall not provide
62 educational scholarships for students to attend any school with paid
63 staff or board members, or relatives thereof, in common with the
64 scholarship granting support organization.

65 4. A scholarship granting organization shall publicly report to the
66 department by June first of each year the following information
67 prepared by a certified public accountant regarding their grants in the
68 previous calendar year:

69 (1) The name and address of the student support organization;

70 (2) The name and address of each student who received a
71 scholarship;

72 (3) The total number and total dollar amount of contributions
73 received during the previous calendar year; and

74 (4) The total number and total dollar amount of educational
75 scholarships awarded during the previous calendar year, the total
76 number and total dollar amount of educational scholarships awarded

77 during the previous year to students qualifying for the federal free and
78 reduced lunch program, and the percentage of first time recipients of
79 educational scholarships who were continuously enrolled in a public
80 school during the previous year.

81 5. Before scholarship granting organizations may raise qualified
82 contributions, they must have received or demonstrated ability to
83 receive qualified applicants and have identified potential vacancies in
84 qualified schools as determined by the director.

135.989. 1. The department shall adopt rules and procedures
2 consistent with this act as necessary to implement the program. Any
3 rule or portion of a rule, as that term is defined in section 536.010,
4 RSMo, that is created under the authority delegated in this section shall
5 become effective only if it complies with and is subject to all of the
6 provisions of chapter 536, RSMo, and, if applicable, section 536.028,
7 RSMo. This section and chapter 536, RSMo, are nonseverable and if any
8 of the powers vested with the general assembly pursuant to chapter 536,
9 RSMo, to review, to delay the effective date, or to disapprove and annul
10 a rule are subsequently held unconstitutional, then the grant of
11 rulemaking authority and any rule proposed or adopted after August 28,
12 2006, shall be invalid and void.

13 2. The department shall provide a standardized format for a
14 receipt to be issued by a scholarship granting organization to a taxpayer
15 to indicate the value of a contribution received. The department shall
16 require a taxpayer to provide a copy of this receipt when claiming the
17 tax credit for support of the student success scholarship program.

18 3. The department shall provide a standardized format for
19 scholarship granting organizations to report the information in
20 subsection 4 of section 135.986.

21 4. The department shall have the authority to conduct either a
22 financial review or audit of a scholarship granting organization if
23 possessing evidence of fraud.

24 5. The department may bar a scholarship granting organization
25 from participating in the program if the department establishes that the
26 scholarship granting organization has intentionally and substantially
27 failed to comply with the requirements in section 135.986.

28 6. If the department decides to bar a scholarship granting
29 organization from the program, it shall notify affected scholarship
30 students and their parents of this decision as quickly as possible.

31 7. The department shall allow a taxpayer to divert a prorated
32 amount of state income tax withholdings to a scholarship granting
33 organization of the taxpayer's choice up to the maximum credit allowed
34 by law, including carry-over credits. The department shall have the
35 authority to develop a procedure to facilitate this process.

 135.991. 1. All qualified schools shall be required to operate in
2 this state.

3 2. All qualified nonpublic schools shall comply with all state laws
4 that apply to nonpublic schools regarding criminal background checks
5 for employees and exclude from employment any people not permitted
6 by state law to work in a nonpublic school.

7 3. All qualified schools shall provide the administration of the
8 statewide assessments under section 160.518, RSMo, or a nationally
9 recognized norm-referenced assessment to all scholarship recipients
10 except those with individualized education plans that specify that such
11 assessment would not be appropriate. Results will be provided to
12 parents or guardians of each scholarship recipient.

13 4. All nonpublic qualified schools shall:

14 (1) Comply with all health and safety laws or codes that apply to
15 nonpublic schools;

16 (2) Hold a valid occupancy permit if required by their
17 municipality;

18 (3) Certify that they will not discriminate in admissions on the
19 basis of race, color, national origin, religion, or disability.

 135.994. 1. The committee on legislative research shall contract
2 with one or more qualified researchers who have previous experience
3 evaluating school choice programs to conduct a study of the program
4 with funds other than state funds.

5 2. The study must assess:

6 (1) The level of parental satisfaction with the program;

7 (2) The level of participating students' satisfaction with the
8 program;

9 (3) The overall impact of the program on public school students
10 and on the resident school districts and schools from which the
11 participating students transferred;

12 (4) The impact of the program on public and private school
13 capacity, availability, and quality of service; and

14 (5) Each participating student's performance on annual

15 assessment instruments before and after entering the program.

16 3. The researchers who conduct the study shall apply appropriate
17 analytical and behavioral science methodologies to ensure public
18 confidence in the study.

19 4. The researchers who conduct the study shall provide the
20 general assembly with a final copy of the evaluation of the program.

21 5. The public and private participating schools which students
22 transfer to and from shall cooperate with the research effort by
23 providing student assessment instrument scores and any other data
24 necessary to complete this study.

25 6. The general assembly may accept grants to assist in funding
26 this study. The study shall cover a period of twelve years. The general
27 assembly may require periodic reports from the researchers. The
28 researchers must make their data and methodology available for public
29 review while complying with the requirements of FERPA, 20 U.S.C.
30 Section 1232g.

135.997. 1. The Missouri student success scholarships tax credits
2 may be first claimed in the next calendar year.

3 2. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

4 (1) The provisions of the new program authorized under sections
5 135.610 to 135.624 shall automatically sunset six years after the effective
6 date of these sections, unless reauthorized by an act of the general
7 assembly; and

8 (2) If such program is reauthorized, the program authorized
9 under sections 135.610 to 135.624 shall automatically sunset twelve years
10 after the effective date of the reauthorization of these sections.

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